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BEFORE THE ARIZONA CORPORATION COMMISSION

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DOCKET NO. W-02113A-04-0616

COMMISSIONERS

MIKE GLEASON, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

IN THE MATTER OF THE APPLICATION OF  
CHAPARRAL CITY WATER COMPANY, AN  
ARIZONA CORPORATION, FOR A  
DETERMINATION OF THE CURRENT FAIR  
VALUE OF ITS UTILITY PLANT AND  
PROPERTY AND FOR INCREASES IN ITS  
RATES AND CHARGES FOR UTILITY SERVICE  
BASED THEREON.

REMAND HEARING  
SECOND PROCEDURAL ORDER

**BY THE COMMISSION:**

On September 30, 2005, the Commission issued Decision No. 68176, granting a rate increase to Chaparral City Water Company ("Chaparral City"). The parties to Decision No. 68176 include Chaparral City, the Residential Utility Consumer Office ("RUCO"), and the Commission's Utilities Division Staff ("Staff"). Chaparral City appealed Decision No. 68176 to the Arizona Court of Appeals.

The Arizona Court of Appeals, Division One, considered Chaparral City's appeal, and on February 13, 2007, issued its Memorandum Decision. The Memorandum Decision, per Judge Lawrence F. Winthrop, Affirmed in Part, Vacated, and Remanded Decision No. 68176 to the Commission for further determination.

On June 7, 2007, the Commission issued a Remand Hearing Procedural Order in this docket establishing a schedule for a remand proceeding in accordance with the Memorandum Decision. The Remand Hearing Procedural Order stated that once the required operating income of Chaparral City by reference to its fair value rate base is determined, it will be necessary to determine just and reasonable rates designed to recover the revenue requirement that emerges from the calculation. The

1 Remand Hearing Procedural Order also stated that if the results of the process demonstrate that the  
2 rates established for Chaparral City by Decision No. 68176 are either too high or too low, the  
3 Commission should consider whether it is necessary to provide a mechanism for a refund or  
4 surcharge, if the public interest dictates. The Remand Hearing Procedural Order further stated that  
5 depending on whether the parties' proposed methodologies result in a measurably different revenue  
6 requirement, it may be necessary to reassess rate design.

7  
8 A Procedural Conference was held on June 22, 2007 for the purpose of making adjustments in  
9 the established procedural schedule as necessary to eliminate scheduling conflicts. Chaparral City,  
10 RUCO and Staff appeared and discussed suitable hearing dates and associated filing dates for the  
11 remand hearing. The parties agreed to the date of November 6, 2007, for the commencement of the  
12 remand hearing in this docket. The parties also agreed to keep the dates currently in effect for the  
13 filing of Chaparral City's Direct Testimony (July 13, 2007), and Staff and Intervenor Direct  
14 Testimony (August 30, 2007). Further, the parties agreed that the remaining filing deadlines set forth  
15 in the June 7, 2007 Remand Hearing Procedural Order should be changed in accordance with the new  
16 hearing date.

17  
18 IT IS THEREFORE ORDERED that the **hearing in the remand proceeding** on the above-  
19 captioned matter is hereby **continued to November 6, 2007, at 10:00 a.m.**, or as soon thereafter as is  
20 practical, at the Commission's offices, 1200 West Washington Street, Arizona 85007.

21  
22 IT IS FURTHER ORDERED that the **pre-hearing conference** for the purpose of scheduling  
23 witnesses and the conduct of the hearing is hereby **continued to November 1, 2007, at 1:30 p.m.**, at  
24 the Commission's offices.

25 IT IS FURTHER ORDERED that the parties shall bring to the pre-hearing conference a  
26 matrix listing issues remaining to be resolved with a brief description of the parties' positions on the  
27 unresolved issues.  
28

1 IT IS FURTHER ORDERED that the parties to Decision No. 68176 shall provide testimony  
2 and exhibits in support of their proposed methodology for determining the required operating income  
3 of Chaparral City Water Company by reference to its fair value rate base, and in support of proposed  
4 rates, if different from existing rates.

5 IT IS FURTHER ORDERED that **direct testimony** and associated exhibits to be presented at  
6 hearing by **Chaparral City Water Company** shall be reduced to writing and filed on or before **July**  
7 **13, 2007**.

8 IT IS FURTHER ORDERED that **direct testimony** and associated exhibits to be presented at  
9 hearing on behalf of **the Residential Utility Consumer Office** and on behalf of **the Commission's**  
10 **Utilities Division Staff** shall be reduced to writing and filed on or before **August 30, 2007**.

11 IT IS FURTHER ORDERED that **rebuttal testimony** and associated exhibits to be presented  
12 at hearing by **Chaparral City Water Company** shall be reduced to writing and filed on or before  
13 **September 25, 2007**.

14 IT IS FURTHER ORDERED that **surrebuttal testimony** and associated exhibits to be  
15 presented by **the Residential Utility Consumer Office** and by **the Commission's Utilities Division**  
16 **Staff** shall be reduced to writing and filed on or before **October 17, 2007**.

17 IT IS FURTHER ORDERED that **rejoinder testimony** and associated exhibits to be  
18 presented at the hearing on behalf of **Chaparral City Water Company** shall be reduced to writing  
19 and filed on or before **October 26, 2007**.

20 IT IS FURTHER ORDERED that any **objections to any testimony** or exhibits which have  
21 been pre-filed as of October 26, 2007, shall be made **before or at the November 1, 2007 pre-**  
22 **hearing conference**.

23 IT IS FURTHER ORDERED that all testimony filed shall include a table of contents which  
24 lists the issues discussed.

25 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to  
26 pre-filed testimony shall be reduced to writing and filed no later than five calendar days before the  
27 witness is scheduled to testify.

28

1 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the  
2 pre-filed testimony of each of their witnesses and shall file each summary at least two working days  
3 before the witness is scheduled to testify.

4 IT IS FURTHER ORDERED that copies of summaries should be served upon the Presiding  
5 Officer, the Commissioners, and the Commissioners' aides as well as the parties of record.

6 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and  
7 regulations of the Commission, except that: until October 5, 2007, any objection to discovery  
8 requests shall be made within 7 calendar days<sup>1</sup> of receipt and responses to discovery requests shall be  
9 made within 10 calendar days of receipt; thereafter, objections to discovery requests shall be made  
10 within 5 calendar days and responses shall be made within 7 calendar days of receipt. The response  
11 time may be extended by mutual agreement of the parties involved if the request requires an  
12 extensive compilation effort. **No discovery requests shall be served after October 18, 2007.**

13 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
14 discovery, any party seeking discovery may telephonically contact the Commission's Hearing  
15 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a  
16 request, a procedural hearing will be convened as soon as practicable; and that the party making such  
17 a request shall contact all other parties to advise them of the hearing date and shall at the procedural  
18 hearing provide a statement confirming that the other parties were contacted.<sup>2</sup>

19 IT IS FURTHER ORDERED that discovery requests, objections, and answers may be served  
20 electronically.<sup>3</sup>

21 IT IS FURTHER ORDERED that any motions filed in this matter that are not ruled upon by  
22 the Commission within 20 calendar days of the filing date of the motion shall be deemed denied.

23 IT IS FURTHER ORDERED that any **responses to motions** shall be filed **within five**  
24 **calendar days of the filing date of the motion.**

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25 <sup>1</sup> The date of receipt of discovery requests is not counted as a day, and requests received after 4:00 p.m. MST will be  
26 considered as received the next business day.

27 <sup>2</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before  
seeking Commission resolution of the controversy.

28 <sup>3</sup> If requested by the receiving party, and the sending party has the technical capability, service electronically is  
mandatory.

1 IT IS FURTHER ORDERED that any **replies** shall be filed **within five calendar days of the**  
2 **filing date of the response.**

3 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
4 Communications) applies to this proceeding as the matter is now set for public hearing.

5 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
6 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

7 IT IS FURTHER ORDERED that all parties must comply with Rule 33(c) and 38(a) of the  
8 Rules of the Arizona Supreme Court with respect to practice of law and admission *pro hac vice*.

9 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
10 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
11 Rules of Arizona Supreme Court). Representation before the Commission includes the obligation to  
12 appear at all hearings and procedural conferences, as well as all Open Meetings for which the matter  
13 is scheduled for discussion, unless counsel has previously been granted permission to withdraw by  
14 the Administrative Law Judge or the Commission.

15 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
16 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

17 DATED this 25<sup>th</sup> day of June, 2007.

18  
19  
20   
21 TEENA WOLFE  
ADMINISTRATIVE LAW JUDGE

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1 Copies of the foregoing mailed/delivered  
2 this 25<sup>th</sup> day of June, 2007 to:

3 Norman D. James  
4 Jay L. Shapiro  
5 FENNEMORE CRAIG  
6 3003 North Central Avenue, Ste. 2600  
7 Phoenix, AZ 85012  
8 Attorneys for Chaparral City Water Company


9 Scott S. Wakefield, Chief Counsel  
10 RESIDENTIAL UTILITY CONSUMER OFFICE  
11 1110 West Washington Street, Suite 220  
12 Phoenix, AZ 85007

13 Christopher Kempley, Chief Counsel  
14 Legal Division  
15 ARIZONA CORPORATION COMMISSION  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007

18 Ernest Johnson, Director  
19 Utilities Division  
20 ARIZONA CORPORATION COMMISSION  
21 1200 West Washington Street  
22 Phoenix, Arizona 85007

23 ARIZONA REPORTING SERVICE, INC.  
24 2627 North Third Street, Suite Three  
25 Phoenix, Arizona 85004-1104

26 By:

27   
28 Debra Broyles  
Secretary to Teena Wolfe